

REMARKS

Claims 17-20 and 22-29 are pending. Favorable reconsideration is respectfully requested.

The rejection of the claims under 35 U.S.C. §112, first paragraph, on the basis of an alleged lack of written description, as the rejection applies to the claims as amended above, is respectfully traversed.

The bacterium specified in the claimed method is defined by common essential characteristics: the specific sequence of a 16S rRNA gene and the properties of the bacterium, such as an acetic acid production ability and specific osmophilicity, which are quite unusual for other acetobacters. These common characteristics distinguish the bacterium and are well-explained in the Examples of the present application.

The Examiner has stated that the phenotype of one strain from a species of a genus composed of thousands of bacteria is not representative of the genus as a whole. However, a bacterium which has a sequence of a 16S rRNA gene as recited in the present claims and does not have the properties specified in the claims is excluded from those claims. Therefore, it does not matter whether or not the five isolated strains represent the genus or the family to which the strains belong.

In light of the above, those skilled in the art would understand that the bacterium recited in the amended claims is fully described in the present specification. Therefore, this rejection should be withdrawn.

The rejection of the claims under 35 U.S.C. §112, first paragraph, on the basis of an alleged lack of enablement, as the rejection applies to the claims as amended above, is respectfully traversed.

The bacterium specified in the claimed method is defined by common essential characteristics: the specific sequence of a 16S rRNA gene and the properties of the

Application No. 09/902,693
Reply to Office Action of June 3, 2003

bacterium, as discussed above. In fact, a bacterium which has sequence of a 16S rRNA gene as recited in the amended claims but does not have the properties recited in the claims is excluded from those claims.

In addition, determining a 16S rRNA gene sequence of a bacterium and comparing the sequence with the sequences disclosed in the present application are within the scope of the normal experimentation which skilled persons in the art can perform. Also, to confirm that a bacterium has the claimed properties is also within the scope of the normal experimentation which skilled persons in the art can perform. Thus, the method for screening a bacterium having the claimed characteristics can be readily practiced by those skilled in the art in view of the teachings of the present application and the state of the art.

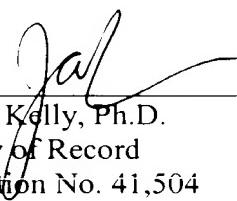
The five isolated strains in the present invention were obtained from about 3000 strains of osmophilic bacteria. There is no reasonable expectation that there are no bacteria other than the five strains which have the claimed characteristics.

In light of the foregoing, the amount of experimentation needed to practice the claimed method is not undue. Accordingly, the claims are enabled. Withdrawal of this ground of rejection is respectfully requested.

Applicants submit that the present application is in condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



James J. Kelly, Ph.D.
Attorney of Record
Registration No. 41,504

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
JK/cja